

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sophia Manuel	Team: Team # 4	CCRB Case #: 201310387	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 10/16/2013 3:58 AM	Location of Incident: In front of § 87(2)(b)	Precinct: 75	18 Mo. SOL 4/16/2015	EO SOL 4/16/2015	
Date/Time CV Reported Mon, 11/04/2013 2:01 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 11/04/2013 2:01 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Radoslaw Terepka	14042	926200	075 PCT
2. SGT Robert Martinez	01369	922716	075 PCT
3. POM David Pralgo	23516	916465	075 PCT
4. POM Thomas Napolitano	29370	940682	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Thomas Napolitano	Abuse: PO Thomas Napolitano stopped § 87(2)(b)	§ 87(2)(b)
B.POM Thomas Napolitano	Abuse: PO Thomas Napolitano frisked § 87(2)(b)	§ 87(2)(b)
C.POM Thomas Napolitano	Abuse: PO Thomas Napolitano searched § 87(2)(b)	§ 87(2)(b)
D.POM David Pralgo	Abuse: PO David Pralgo stopped § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
E.POM Radoslaw Terepka	Abuse: PO Radoslaw Terepka stopped § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
F.POM Radoslaw Terepka	Abuse: PO Radoslaw Terepka frisked § 87(2)(b)	§ 87(2)(b)
G.POM Radoslaw Terepka	Abuse: PO Radoslaw Terepka searched § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
H.POM David Pralgo	Abuse: PO David Pralgo frisked § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
I.POM David Pralgo	Abuse: PO David Pralgo searched § 87(2)(b)	§ 87(2)(b)
J.POM David Pralgo	Force: PO David Pralgo used physical force against § 87(2)(b)	§ 87(2)(b)
K.SGT Robert Martinez	Force: Sgt. Robert Martinez used physical force against § 87(2)(b)	§ 87(2)(b)
§ 87(4-b) § 87(2)(g)	§ 87(4-b) § 87(2)(g)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b) § 87(2)(g)		

### Case Summary

On November 4, 2013, § 87(2)(b) called the CCRB and filed this complaint (encl. 30-32). On October 16, 2013 in front of § 87(2)(b) in Brooklyn, § 87(2)(b) was arrested by PO Radoslaw Terepka of the 75<sup>th</sup> Precinct. The following allegations resulted:

- **Allegation A – Abuse of Authority: PO Thomas Napolitano stopped** § 87(2)(b)
- **Allegation B – Abuse of Authority: PO Thomas Napolitano frisked** § 87(2)(b)
- **Allegation C – Abuse of Authority: PO Thomas Napolitano searched** § 87(2)(b)  
§ 87(2)(g)

- **Allegation D – Abuse of Authority: PO David Pralgo stopped** § 87(2)(b) **and** § 87(2)(b)

- **Allegation E – Abuse of Authority: PO Radoslaw Terepka stopped** § 87(2)(b) **and** § 87(2)(b)

- **Allegation F – Abuse of Authority: PO Radoslaw Terepka frisked** § 87(2)(b)

- **Allegation G – Abuse of Authority: PO Radoslaw Terepka searched** § 87(2)(b) **and** § 87(2)(b)

- **Allegation H – Abuse of Authority: PO David Pralgo frisked** § 87(2)(b) **and** § 87(2)(b)

- **Allegation I – Abuse of Authority: PO David Pralgo searched** § 87(2)(b)

§ 87(2)(g)

- **Allegation J – Force: PO David Pralgo used physical force against** § 87(2)(b)

- **Allegation K – Force: Sgt. Robert Martinez used physical force against** § 87(2)(b)

# § 87(2)(g)

- § 87(4-b) § 87(2)(g)

This case was not eligible for mediation.

### Results of Investigation

#### Civilian Statements

##### Complainant/Victim: § 87(2)(b)

- *At the time of the incident, § 87(2)(b) was § 87(2)(b) old. He is a male with black hair and brown eyes. He is 5'10" tall and 150 pounds. § 87(2)(b).*

##### Arrest Photo

§ 87(2)(b) has swelling and redness on the right side of his lower lip. On his left cheek is a

red abrasion, approximately two inches long and one inch wide. There is scabbing on the left corner of his nose. The inside of his left eye socket is bruised (encl. 86).

### **Photos**

§ 87(2)(b) provided photographs taken on October 16, 2013 (encl. 38-44). Four photos depict injuries on § 87(2)(b)'s face. They are the same as the injuries in the arrest photo, with the scabbing to his nose and bruise to his eye socket more pronounced. § 87(2)(b) said these injuries were due to Sgt. Martinez punching his face and grinding his face into the pavement. One photo depicts two blood stains on the sidewalk, where Sgt. Martinez allegedly ground § 87(2)(b)'s face. Two photos from October 18, 2013, depict a small lateral dent on § 87(2)(b)'s father's minivan, which § 87(2)(b) said was caused by PO Pralgo pushing him. The undersigned investigator also took photos of the dent on December 6, 2013 (encl. 28-29).

### **CCRB Statement**

§ 87(2)(b) was interviewed at the CCRB on November 15, 2013 (encl. 33-47). His statement was consistent with his initial statement and with his phone statement from November 6, 2013 (encl. 30-33). He provided additional details on the phone on October 20, 2014 (encl. 128c). On October 16, 2013, at approximately 3:30 a.m., § 87(2)(b) and his cousin, § 87(2)(b) were outside their house, located at § 87(2)(b) in Brooklyn. They heard a commotion down the street on Jamaica Avenue, so they walked over to see what was happening. They saw some men arguing, but they did not see a physical fight or weapons. § 87(2)(b) never became involved in this or any fight. § 87(2)(b) recognized his friend, arguing with an unidentified officer in a marked police car. He did not want his friend to get in trouble, so he and § 87(2)(b) walked their friend to his house on Arlington Avenue. Then they walked home and went inside for a few minutes. They exited and smoked tobacco cigarettes on the sidewalk in front of their house, near § 87(2)(b)'s father's minivan which was parked in the street.

A black Impala pulled up and two or three officers in plainclothes exited. The officers were identified by the CCRB as PO Radoslaw Terepka and PO David Pralgo. PO Terepka was described as a white male, 5'11" tall, and slim, with slicked back brown hair, in his thirties. PO Pralgo was described as a short and stocky white male with salt and pepper hair, in his forties. PO Pralgo and PO Terepka approached § 87(2)(b). He stepped forward and asked them, "How are you doing officers? What's going on?" § 87(2)(b) told the officers that he and § 87(2)(b) did not have any weapons and that they lived in that house. PO Pralgo said, "Just do me a favor and stand right there." § 87(2)(b) and § 87(2)(b) moved back toward § 87(2)(b)'s father's van, while PO Terepka searched the bushes and ground with a flashlight. The officers went next door and talked to § 87(2)(b)'s neighbor, § 87(2)(b). Then they returned.

At some point, another unmarked car pulled up. Officers, identified by the investigation as Sgt. Robert Martinez and PO Thomas Napolitano, exited the car and went across the street. § 87(2)(b) described Sgt. Martinez as a white male, 6' tall, with an athletic build and bald or shaved head, in his thirties.

PO Terepka kept asking § 87(2)(b) where he lived, and § 87(2)(b) kept on saying he lived in the house they were standing in front of. PO Pralgo told § 87(2)(b) that there was a fight. § 87(2)(b) said he and § 87(2)(b) had nothing to do with any fight. PO Pralgo asked to frisk § 87(2)(b) and § 87(2)(b). They consented. PO Pralgo felt the outside of § 87(2)(b)'s clothes and then put his hands inside § 87(2)(b)'s pockets, while PO Terepka frisked and searched § 87(2)(b). § 87(2)(b) asked, "What's the problem? What's the probable cause?" but he never raised his voice. The officers said, "Shut up." PO Terepka again asked § 87(2)(b) where he lived. § 87(2)(b) said this was his house. Officers searched the area with flashlights for several minutes. PO Terepka and PO Pralgo asked to search § 87(2)(b) and § 87(2)(b) again. They consented, but § 87(2)(b) asked, "What is the probable cause?" PO Terepka and PO Pralgo put their hands in

§ 87(2)(b) and § 87(2)(b) s pockets again.

PO Terepka asked to search § 87(2)(b) and § 87(2)(b) again. § 87(2)(b) asked what the probable cause was. PO Terepka told them to turn around and put their hands on the minivan. § 87(2)(b) did not comply. He said, “You already searched us twice. There’s no reason for a third time. What’s the probable cause?” § 87(2)(b) did not raise his voice. PO Terepka yelled, “Shut up,” but § 87(2)(b) continued asking what the probable cause was. PO Terepka said, “Say that again.” § 87(2)(b) again asked what the probable cause was. § 87(2)(b) never walked toward the officers threateningly. He never did anything with his arms.

PO Pralgo pushed § 87(2)(b) s chest hard with both hands, slamming his back against the minivan, causing a dent in the door. § 87(2)(b) put his arms in front of him to protect himself. He grabbed PO Pralgo’s jacket with both hands. § 87(2)(b) ran inside the house. PO Terepka came from the right side and grabbed § 87(2)(b) s right arm with both hands. § 87(2)(b) released one hand from PO Pralgo’s jacket and grabbed PO Terepka’s jacket with that hand. In the process, § 87(2)(b) ripped PO Pralgo’s jacket. § 87(2)(b) said, “What are you all doing?” Sgt. Martinez approached § 87(2)(b) from his left side and punched his left eye socket and left cheek. This was the first time § 87(2)(b) saw Sgt. Martinez. He assumed that Sgt. Martinez had been talking to a neighbor, § 87(2)(b) across the street.

§ 87(2)(b) gave up resisting. Sgt. Martinez, PO Pralgo, and PO Terepka pushed him to the ground. He lay on the sidewalk on his stomach, with his face turned so that his left cheek was on the pavement. He did not move his arms or legs. Sgt. Martinez, who he could see standing to his right, in front of his face, stepped hard on his face, near the right side of his lips, and twisted his foot, grinding the left side of § 87(2)(b) s face into the pavement. This caused an abrasion on § 87(2)(b) s left cheekbone and swelling and bleeding to the right corner of his lip. As Sgt. Martinez was stepping on his face, PO Pralgo and PO Terepka placed § 87(2)(b) in handcuffs. He allowed the officers to handcuff him, but yelled profanity at them. At no point did § 87(2)(b) try to kick the officers.

§ 87(2)(b) and § 87(2)(b) s parents exited the house. The officers lifted § 87(2)(b) up. § 87(2)(b) s parents talked to the officers. PO Pralgo and Sgt. Martinez placed § 87(2)(b) in a second black Impala and drove him to the 75<sup>th</sup> Precinct stationhouse, where he did not request medical treatment because he did not want to delay the process. § 87(2)(b) did not go to the hospital after being released from Central Booking. § 87(2)(b) was charged with § 87(2)(b)

**Victim:** § 87(2)(b)

- *At the time of the incident, § 87(2)(b) was § 87(2)(b) old. He is a black male, 5’11” tall and 160 pounds, with black hair and brown eyes. § 87(2)(b) is § 87(2)(b) s cousin. § 87(2)(b)*

**CCRB Statement**

§ 87(2)(b) was interviewed at § 87(2)(b) in Brooklyn on December 6, 2013 (encl. 51-55). His statement was consistent with his telephone statement provided on November 20, 2013 (encl. 50). On October 16, 2013, § 87(2)(b) and § 87(2)(b) were at their house. They had been at the house all day and all night. At approximately 3:30 a.m., they heard an altercation on the corner of Jamaica Avenue and Van Siclen Court. Earlier, they had each consumed two beers. They went to the corner, but did not see any fighting. They saw their friends and they smoked tobacco cigarettes. They went back to their house and smoked cigarettes outside. After about ten minutes, two black unmarked police cars pulled up. § 87(2)(b) and § 87(2)(b) put their hands up because they were afraid.

Three uniformed officers, identified by the investigation as PO Pralgo, PO Terepka, and Sgt.

Martinez, exited and approached. PO Pralgo was a heavy-set, 6'0" tall, white male officer with brown hair in his late thirties. PO Terepka was a slim, taller, white male, 200 pounds, with brown hair in his late thirties. § 87(2)(b) did not describe the third officer, who was identified by the investigation as Sgt. Martinez. PO Terepka said sarcastically, "Good evening gentlemen. How you doing? Do you guys have anything on you? Anything we need to worry about?" § 87(2)(b) and § 87(2)(b) said they had nothing but two cigarettes. PO Terepka said, "Do you mind if we search you?" § 87(2)(b) and § 87(2)(b) said okay. § 87(2)(b) felt that even if he and § 87(2)(b) had said no, the officers would have searched them, but he could not articulate why. PO Terepka put his hands in § 87(2)(b)'s pockets and then in § 87(2)(b)'s pockets. PO Terepka said, "So you guys were fighting. That's what you all do?"

PO Terepka said, "Can we search you again?" or "You know what? Let me search you again." § 87(2)(b) said okay. PO Terepka put his hands in § 87(2)(b)'s pockets. § 87(2)(b) asked, "What's the probable cause? Why are you stopping us?" § 87(2)(b) spoke loudly, but not threateningly. § 87(2)(b) tried to quiet § 87(2)(b) so that he would not upset the officers. PO Terepka said threateningly, "We're about to calm him down," and put his hands in § 87(2)(b)'s pockets. § 87(2)(b) was standing in front of his house, next door. PO Pralgo stood § 87(2)(b) and § 87(2)(b) in a line against the minivan. PO Pralgo patted the outside of § 87(2)(b)'s pockets. The officers searched in front of their house and the house next door with flashlights.

§ 87(2)(b) continued asking, "What's the probable cause?" PO Pralgo pushed § 87(2)(b)'s chest with both hands and all his weight against § 87(2)(b)'s father's car. § 87(2)(b)'s back hit the car, causing a dent on the car. Right before the push, § 87(2)(b) was holding a cigarette, saying, "What's the probable cause?" and gesticulating. He never made a threatening motion. He never used profanity, until after the officers started hurting him.

§ 87(2)(b) ran to the basement door and entered the house. He called for § 87(2)(b)'s parents, § 87(2)(b) and § 87(2)(b). § 87(2)(b) did not go back outside. He heard § 87(2)(b) yelling, "Ya'll putting hands on me. Ya'll putting ya'll feet on me," and yelling profanity at the officers. § 87(2)(b) and § 87(2)(b) went outside.

A neighbor across the street, who was identified by the investigation as § 87(2)(b), gave § 87(2)(b) a video of the officers. § 87(2)(b) learned that officers also searched § 87(2)(b).

**Witness:** § 87(2)(b)

- *At the time of the incident, § 87(2)(b) was § 87(2)(b) old. He is a black male, 5'7" tall and 180 pounds, with gray hair and brown eyes.* § 87(2)(b)

**CCRB Statement**

§ 87(2)(b) was interviewed at § 87(2)(b) in Brooklyn on December 6, 2013 (encl. 56-60). On October 16, 2013, § 87(2)(b) was asleep in his home. § 87(2)(b) shouted to him, "They're beating up § 87(2)(b) and his wife, § 87(2)(b) went outside and saw § 87(2)(b) in handcuffs, lying on the ground with his face down. There was blood on the ground. Two officers in plainclothes were searching the area with flashlights. § 87(2)(b) asked what they were looking for and what was happening. One of the officers, a white or Hispanic male with a heavy build, 5'7" tall, wanted § 87(2)(b) to compel § 87(2)(b) to exit the house. The officer said they were looking for a knife because there had been an altercation down the street and they thought that § 87(2)(b) and § 87(2)(b) were involved.

§ 87(2)(b) noticed a 6-inch long dent on his car which was not there before. He asked the officers about the damage to his car, but they said, "We did not do any damage to your car.

We were never near your car.” § 87(2)(b) later learned from § 87(2)(b) that the damage occurred when an officer pushed § 87(2)(b) against the car. § 87(2)(b) has not had the dent repaired since the incident.

Officers took § 87(2)(b) to the stationhouse. § 87(2)(b) met them there. An officer said that they had been looking for a knife, but that, even if they had found it, they could not have charged § 87(2)(b) with § 87(2)(b) because it was a kitchen knife.

**Witness:** § 87(2)(b)

- *At the time of the incident, § 87(2)(b) was § 87(2)(b) old. He is a black male, 5’10” tall and 240 pounds, with black hair and brown eyes.* § 87(2)(b)

**CCRB Statement**

§ 87(2)(b) provided a telephone statement on November 25, 2013 (encl. 49). He provided additional details on the phone on October 14, 2014 (encl. 60a). He provided a sworn statement on October 17, 2014 (encl. 60b-60g). § 87(2)(g)

On October 16, 2013, at approximately 3:58 a.m., § 87(2)(b) s friend was in a fist fight with a female down the street on Jamaica Avenue. § 87(2)(b) and § 87(2)(b) were across the street, watching from the corner of Jamaica Avenue and Van Siclen Court. They did not get involved in the fight or even cross the street towards the fight. No officers responded to the scene of the fight. After it ended, § 87(2)(b) walked back to his house. § 87(2)(b) and § 87(2)(b) went back to their house. § 87(2)(b) and § 87(2)(b) did not shout profanity or anything.

A police car drove up § 87(2)(b) s block, followed shortly by one or two additional police cars. Several white officers in plainclothes exited. An officer, identified by the investigation as PO Napolitano, exited and stopped § 87(2)(b) who had just exited his house. § 87(2)(b) had not been at the scene of the fight. § 87(2)(b) did not see if PO Napolitano frisked or searched § 87(2)(b)

A young, thin, white male officer, identified by the investigation as PO Terepka, and a bald, short, white male officer with a stocky build, identified by the investigation as PO Pralgo, stopped § 87(2)(b) and § 87(2)(b) (Although Sgt. Martinez fits § 87(2)(b) s description of the bald officer, the investigation determined that the actions which § 87(2)(b) ascribes to the bald officer were actually taken by PO Pralgo, based on all officer and other civilian testimony.)

PO Terepka then approached § 87(2)(b) who was sitting on his stoop. PO Terepka asked § 87(2)(b) about the fight. § 87(2)(b) said he had nothing to do with it. During his initial phone statement, § 87(2)(b) said that PO Terepka put his hands inside § 87(2)(b) s pockets. In his sworn statement, he said he did not think any officer put his hands in his pockets. PO Terepka asked § 87(2)(b) for identification. § 87(2)(b) did not comply. PO Terepka told § 87(2)(b) to stand against § 87(2)(b) s father’s minivan, beside where the other officers had stood. § 87(2)(b) and § 87(2)(b) § 87(2)(b) complied and stood to the right of § 87(2)(b)

In his initial statement, § 87(2)(b) said that officers then put their hands in the pockets of § 87(2)(b) and § 87(2)(b). In his sworn statement, § 87(2)(b) said he did not know if any officer frisked or searched § 87(2)(b) or § 87(2)(b)

PO Pralgo was talking to § 87(2)(b). § 87(2)(b) asked him, “What’s the proper cause?” PO Pralgo said, “Repeat it again.” § 87(2)(b) said, “What’s the proper cause?” In his initial statement, § 87(2)(b) noted that § 87(2)(b) did not appear to threaten PO Pralgo. PO Pralgo shoved § 87(2)(b) against the car and punched his face. To protect himself from another punch, § 87(2)(b) grabbed PO Pralgo’s arm. He did not grab PO Pralgo before being punched. PO

Terepka and other officers came and grabbed § 87(2)(b). In his phone statement on October 14, 2014, § 87(2)(b) said that PO Terepka punched § 87(2)(b) in the face.

§ 87(2)(b) could not see exactly what the officers were all doing, but they helped PO Pralgo take § 87(2)(b) to the ground. It was hard for § 87(2)(b) to see what was happening because there were so many officers and because he was concerned about himself. One of the officers, § 87(2)(b) could not see which, stomped on § 87(2)(b)'s face. One of the officers also pressed his knee onto § 87(2)(b)'s face. § 87(2)(b) did not know if an officer twisted his foot while pressing it on § 87(2)(b)'s face. The officers handcuffed § 87(2)(b).

Throughout the incident, several officers, including PO Terepka, were periodically searching the yards of all the houses with flashlights.

§ 87(2)(b)'s father exited the house. The officers placed § 87(2)(b) in the police car. § 87(2)(b) went back into his house.

The following day, § 87(2)(b) saw § 87(2)(b). He had a scrape on the side of his face, as if officers had rubbed his face on the concrete. He also had a swollen, split lip. § 87(2)(b) thought the scrape occurred when an officer stomped on or kneed § 87(2)(b)'s face. He thought the mouth injury occurred when an officer punched his face.

Prior to his struggle with officers, there were no injuries or blood on § 87(2)(b)'s face.

§ 87(2)(b) said during his telephone statement on November 25, 2013 that he did not want to participate in the investigation as a victim.

### **Attempts to Contact Civilians**

On November 20, 2013, § 87(2)(b) was called. She did not witness any allegations. When she exited the house on October 16, 2013, § 87(2)(b) was already in handcuffs, with a wound on his cheek.

While canvassing on December 6, 2013, the investigator met § 87(2)(b)'s father at § 87(2)(b). He stated that § 87(2)(b) witnessed the incident, but was not home. A message was left for § 87(2)(b) to call the CCRB. A first please call letter was mailed to him on December 9, 2013. He was called on January 6, 2014. His mother answered and said he was not home. She took a message for him to call the CCRB. He was called on January 14, 2014. His mother answered and said she received the please call letter and would tell § 87(2)(b) to call the CCRB. He was called again on January 22 and February 3, 2014. Each time, his mother answered and took a message for him to call the CCRB. A final please call letter was mailed to him on January 30, 2014. § 87(2)(b) was called again on October 8, 2014. He did not answer, and a voicemail message was left asking him to call the CCRB. § 87(2)(b) did not contact the CCRB. He was called again on October 14, 2014. His mother answered and said that § 87(2)(b) was mentally ill after someone close to him was shot. She said that he would not be able to provide a phone or in person statement.

### **NYPD Statements:**

#### **Subject Officer: SGT ROBERT MARTINEZ**

- *At the time of the incident, Sgt. Martinez was § 87(2)(b) old. He is a Hispanic male, 6'1" tall and 205 pounds, with a bald head and green/brown eyes.*
- *Sgt. Martinez worked from 9:56 p.m. to 6:40 a.m., assigned as the Anti-Crime Sergeant with PO David Pralgo. He was in plainclothes and assigned to a blue Crown Victoria.*

#### **Memo Book**

Sgt. Martinez wrote the following entries in his memo book: At 3:30 a.m., he responded to Van Siclen Avenue and Jamaica Avenue in response to a dispute. At 3:50 a.m., he was at § 87(2)(b).



§ 87(2)(b). At 3:58 a.m., PO Terepka arrested one person (encl. 61-63).

### **CCRB Statement**

Sgt. Martinez was interviewed at the CCRB on January 29, 2014 (encl. 65-67). On October 16, 2013, at 3:30 a.m., Sgt. Martinez responded to a 911 call regarding a group of people fighting at Van Siclen Avenue and Jamaica Avenue. There were no other details. He did not recall whether there was any mention of weapons. He did not know who made the 911 call. PO Pralgo drove them to the location, where they did not see anyone. He drove around, and came across a group of six or seven males fighting one block south, at the corner of Van Siclen Avenue and Arlington Avenue. All six males appeared to be physically involved in the fight. Sgt. Martinez saw several punches. He saw someone kick one person who was lying on the ground. Sgt. Martinez called for back-up. He did not intervene because there did not appear to be an emergency, there were no weapons, and because he and PO Pralgo were outnumbered. After they observed the group for about one minute, the fight broke up. The group divided into two groups of three. One group of three walked away towards Jamaica Avenue. The other group of three entered a house at the northwest corner of Arlington Avenue and Van Siclen Avenue. Sgt. Martinez and PO Pralgo stopped their vehicle in front of the house and watched to see if anyone came out. Sgt. Martinez did not want to enter the house to arrest people for a violation. He did not know whether the back-up vehicle, which contained PO Terepka and PO Napolitano, arrived in time to see the group. He did not recall whether he saw their vehicle at the scene of the fight.

Sgt. Martinez and PO Pralgo drove around the area, looking for the other group of three. Sgt. Martinez did not intend to arrest anyone. He only wanted to find out what had happened and to make sure that everyone was okay.

PO Terepka or PO Napolitano called Sgt. Martinez to Van Siclen Court and Jamaica Avenue. When Sgt. Martinez and PO Pralgo arrived, they saw two males, identified by the investigation as § 87(2)(b) and § 87(2)(b) on the left side of the street, in front of § 87(2)(b) and one male, identified by the investigation as § 87(2)(b) on the right side of the street. Sgt. Martinez recognized the three males from the fight. He did not recall what he saw them doing at the scene of the fight, except that he thought he saw someone throw a punch near § 87(2)(b). He could not see whether the punch hit him or missed. He did not recall whether § 87(2)(b) threw any punches.

PO Terepka was talking with § 87(2)(b) and § 87(2)(b) on the sidewalk in front of § 87(2)(b). PO Pralgo went to them. Sgt. Martinez did not see an officer touch, frisk, or search § 87(2)(b) or § 87(2)(b). PO Napolitano was standing with § 87(2)(b) on the right side of the street. Sgt. Martinez went to them. PO Napolitano and § 87(2)(b) were talking. There was a steak knife, either on the ground or in PO Napolitano's hand. Sgt. Martinez did not know how PO Napolitano recovered the knife. Sgt. Martinez did not see PO Napolitano frisk or search § 87(2)(b). Sgt. Martinez heard a commotion across the street. He saw PO Pralgo's arm extended, and § 87(2)(b) pulling down on PO Pralgo's arm. PO Pralgo appeared to be leaning forward, losing his balance. At this point, Sgt. Martinez may have seen blood near § 87(2)(b)'s mouth. Sgt. Martinez did not see any other injuries on § 87(2)(b). § 87(2)(b) was several feet from a minivan parked in front of § 87(2)(b). Sgt. Martinez never saw anyone make contact with the van. Sgt. Martinez crossed the street to help PO Pralgo. § 87(2)(b) ran inside his own house. At some point, PO Napolitano crossed the street to help PO Pralgo.

By the time Sgt. Martinez crossed the street, § 87(2)(b) had fallen to the ground, face down. Sgt. Martinez did not recall how he went to the ground. § 87(2)(b) was lying down, and PO Pralgo was either lying on the ground or kneeling beside him. Sgt. Martinez did not do anything to get § 87(2)(b) off PO Pralgo. Sgt. Martinez was not involved in taking § 87(2)(b) to the ground. He was not sure whether PO Terepka ever became physically involved in § 87(2)(b).



§ 87(2)(a) 160.50

§ 87(2)(a) 160.50

### CCRB Statement

PO Terepka was interviewed at the CCRB on January 31, 2014 (encl. 71-73). On October 16, 2013, PO Terepka and PO Napolitano received a cell phone call from Sgt. Martinez, stating that there was a possible fight at Arlington Avenue and Van Siclen Avenue. He did not remember there being other information. Sgt. Martinez did not provide a number of people or descriptions. He did not mention any weapons. PO Terepka drove to that location and saw a group of seven or eight people standing. They were not fighting.

PO Terepka continued driving around the corner and parked at Jamaica Avenue and Van Siclen Avenue. At some point, he received a radio call about a 911 call regarding the possible fight, but he did not receive any more information about the fight. There was no mention of weapons, number of people, direction of flight, or descriptions. However, PO Terepka thought there might have been a stabbing related to the fight because, in his experience, when there is a group of people fighting, there is often a stabbing.

PO Terepka saw three people, identified by the investigation as § 87(2)(b) and § 87(2)(b) walking across Jamaica Avenue, towards § 87(2)(b). PO Terepka recognized them from the group of seven or eight people he had seen standing. They were shouting profanity and breathing heavily, as though they were heated up from a fight. One of them said, "I'm gonna fuck that nigger up." § 87(2)(b) appeared to have a facial injury with blood, but PO Terepka did not recall where exactly it was on his face. PO Terepka followed the males onto Van Siclen Court. He did not receive instructions from Sgt. Martinez to stop them.

On Van Siclen Court, § 87(2)(b) and § 87(2)(b) split up. § 87(2)(b) walked up the right side of the street while § 87(2)(b) and § 87(2)(b) walked up the left side. Sgt. Martinez and PO Pralgo arrived. PO Terepka stopped § 87(2)(b) in front of § 87(2)(b). PO Pralgo stopped § 87(2)(b) who was standing next to § 87(2)(b). PO Napolitano stopped § 87(2)(b) across the street. The officers stopped them in order to investigate the fight, not to arrest them. PO Terepka wanted to know whether they were victims and whether they stabbed someone.

PO Terepka thought he frisked the front of § 87(2)(b)'s waist for weapons when he approached § 87(2)(b). He did not recall whether he said anything before the frisk. PO Terepka suspected that § 87(2)(b) and § 87(2)(b) might be armed because they had just come from a fight, were in a high crime area, and had been yelling profanity while crossing Jamaica Avenue. They did not yell or behave threateningly towards PO Terepka. There was nothing else about them that made PO Terepka suspect that they were armed, although PO Terepka noted that it was a high-crime area and it was dark. PO Terepka did not search § 87(2)(b).

PO Terepka did not see if PO Napolitano frisked or searched § 87(2)(b). He did not hear what § 87(2)(b) and PO Pralgo were saying to each other. He did not see if PO Pralgo frisked or searched § 87(2)(b).

PO Terepka asked § 87(2)(b) about the fight. Before § 87(2)(b) could give PO Terepka any information regarding the fight, PO Terepka observed PO Pralgo and § 87(2)(b) involved in a scuffle. He looked over and saw that § 87(2)(b) was holding both of PO Pralgo's biceps and appeared to be pulling him down. PO Terepka heard a ripping sound, which he later learned was PO Pralgo's jacket ripping. § 87(2)(b) ran into the house. PO Terepka ran the couple of yards to help PO Pralgo because he appeared to be "losing the fight." By the time PO Terepka reached PO Pralgo, § 87(2)(b) was lying on the ground and PO Pralgo was over him. PO Terepka could not remember how § 87(2)(b) got to the ground or which side of his body was against the ground. At one point, § 87(2)(b) was on his back and had to be flipped over to be handcuffed. He assumed that § 87(2)(b) lost his balance as he tried to pull PO Pralgo down.

PO Terepka grabbed one of § 87(2)(b)'s arms and PO Pralgo grabbed the other. At some point, Sgt. Martinez and PO Napolitano came over, and § 87(2)(b) ran into a house. Sgt. Martinez was involved in apprehending § 87(2)(b) but PO Terepka did not recall how. PO Napolitano was not involved in handcuffing § 87(2)(b). PO Terepka was on the right side of § 87(2)(b) and PO Pralgo was on the left side. As PO Pralgo and PO Terepka tried to handcuff § 87(2)(b), § 87(2)(b) he screamed profanity, kicked the air, and tried to pull his arms away from the officers. After about 30 seconds, PO Pralgo, PO Terepka, and possibly Sgt. Martinez placed him in handcuffs. PO Terepka did not have any physical contact with § 87(2)(b) until after § 87(2)(b) was already on the ground. He did not see any officer punch § 87(2)(b). He did not see any officer step on § 87(2)(b)'s face.

Officers looked around the ground for weapons because, in PO Terepka's experience, when people coming from fights see officers, they drop weapons. PO Terepka did not recall seeing § 87(2)(b) against a car at any point. After § 87(2)(b) was in handcuffs, PO Napolitano told him that he recovered a knife from § 87(2)(b). § 87(2)(b) exited § 87(2)(b) and officers told him what happened.

PO Terepka was shown § 87(2)(b)'s arrest photo. PO Terepka could not recall whether those were the injuries that he observed before § 87(2)(b)'s altercation with PO Pralgo. He did not recall whether § 87(2)(b) sustained any injuries in his altercation with PO Pralgo.

PO Terepka did not prepare a Stop, Question and Frisk Report for § 87(2)(b) because he "did not get a chance to."

#### **Subject Officer: PO DAVID PRALGO**

- *At the time of the incident, PO Pralgo was § 87(2)(b) old. He is a white male, 5'11" tall and 240 pounds, with salt and pepper hair and brown eyes.*
- *PO Pralgo worked from 10:00 p.m. to 6:35 a.m., assigned to Anti-Crime with Sgt. Martinez. He was in plainclothes and assigned to vehicle number 202, a blue Crown Victoria.*

#### **Memo Books**

PO Pralgo wrote the following memo book entries: at 3:50 a.m., one male was stopped in front of § 87(2)(b). At 3:58 a.m., PO Terepka made an arrest (encl. 74-76).

#### **CCRB Statement**

PO David Pralgo was interviewed at the CCRB on February 5, 2014 (encl. 78-80). On October 16, 2013, PO Pralgo received a 911 call regarding a group fighting on Jamaica Avenue and Van Siclen Avenue in Brooklyn. PO Pralgo did not remember there being any other details. PO Pralgo and Sgt. Martinez drove to the location, but no one was there. They kept driving, and saw a group of seven or eight males fighting one block away, at the corner of Arlington Avenue and Van Siclen Avenue. PO Pralgo saw several punches thrown. At one point, there was someone lying on the ground, being kicked. PO Pralgo did not see any weapons. PO Pralgo did not see § 87(2)(b).

§ 87(2)(b) and § 87(2)(b) who were later stopped. PO Pralgo and Sgt. Martinez drove one block and parked at Miller Street and Arlington Avenue. They watched the group for two or three minutes. Sgt. Martinez called for PO Terepka and PO Napolitano to come. He said, “There’s a group fighting in the middle of the street. Come on down so we can maybe stop them.” PO Pralgo did not remember whether Sgt. Martinez gave any other details. Sgt. Martinez and PO Pralgo did not stop the group because they were outnumbered. However, PO Pralgo and Sgt. Martinez wanted to stop them after back-up arrived because they wanted to make sure that no one was injured. Before PO Terepka and PO Napolitano arrived, half of the group went inside of a house, and the other half walked north on Van Siclen Avenue.

After about one minute, Sgt. Martinez received a call from PO Napolitano or PO Terepka, stating that they had stopped three of the people who had been fighting. They were at Van Siclen Court and Jamaica Avenue. Sgt. Martinez and PO Pralgo went to the location. They saw PO Napolitano on the right side of the street with § 87(2)(b). PO Terepka was on the left side of the street with § 87(2)(b) and § 87(2)(b). PO Pralgo did not see PO Napolitano touch § 87(2)(b). Sgt. Martinez went to PO Napolitano. PO Pralgo went to PO Terepka.

§ 87(2)(b) and § 87(2)(b) were standing side by side on the sidewalk. PO Terepka was standing in front of § 87(2)(b). PO Pralgo did not pay attention to their conversation. PO Pralgo did not see PO Terepka frisk or touch § 87(2)(b) or § 87(2)(b).

PO Pralgo stood in front of § 87(2)(b) approximately three feet away. He did not make physical contact with § 87(2)(b). § 87(2)(b) was calm, but he had a bloody lip and a small contusion under his left eye. § 87(2)(b) then became irate. He said, “What the fuck are you always messing with us for? Why don’t you mess with the other niggers. This is a bunch of bull shit.” PO Pralgo did not remember hearing § 87(2)(b) ask, “What’s the probable cause?” § 87(2)(b) stepped towards PO Pralgo. PO Pralgo felt threatened by this action because § 87(2)(b) was cursing at PO Pralgo as he stepped forward, he was breathing heavily, and he had a contusion on his face. PO Pralgo stepped back, put his hand out (but did not make physical contact), and said, “Whoa back up,” because he felt threatened and because he did not want § 87(2)(b) to get blood on him. That was the first thing that PO Pralgo said to § 87(2)(b). PO Pralgo did not initiate physical contact with § 87(2)(b). § 87(2)(b) grabbed PO Pralgo’s jacket, with one hand on PO Pralgo’s left sleeve and one on the center of the front of his jacket. He pushed PO Pralgo and then pulled him forward by his windbreaker, which § 87(2)(b) then ripped. PO Pralgo did not push § 87(2)(b) before § 87(2)(b) grabbed PO Pralgo. § 87(2)(b) never made contact with a minivan. PO Pralgo said, “Let go of the jacket.” He grabbed § 87(2)(b)’s arm and tried to pull it off him, but he could not. PO Pralgo began to lose his balance as § 87(2)(b) pulled him down.

Sgt. Martinez and PO Terepka came and helped get § 87(2)(b) off of PO Pralgo, but PO Pralgo did not recall how. § 87(2)(b) hit the sidewalk on his behind, and PO Pralgo went down onto one knee. PO Pralgo thought that Sgt. Martinez and PO Terepka took § 87(2)(b) to the ground, causing PO Pralgo to fall to his knee, because § 87(2)(b) was still holding PO Pralgo’s jacket. Once he hit the ground, § 87(2)(b) let go of PO Pralgo’s jacket. PO Pralgo did not see Sgt. Martinez punch § 87(2)(b) in the face.

Sgt. Martinez and PO Terepka rolled § 87(2)(b) over onto his stomach. § 87(2)(b) stiffened his arms at his sides and kicked his legs in the air. Sgt. Martinez grabbed one hand, and PO Terepka and PO Pralgo tried to grab his other hand to place him in handcuffs. § 87(2)(b) called PO Pralgo, “pussy.” PO Pralgo and Sgt. Martinez said, “Stop resisting.” The officers pulled on his arms and placed them behind his back and in handcuffs. Sgt. Martinez did not step on § 87(2)(b)’s face. PO Pralgo did not step on § 87(2)(b)’s face or see another officer do so.

PO Napolitano came across the street. Officers lifted § 87(2)(b) up. PO Pralgo put § 87(2)(b) into police car number 202, parked on Jamaica Avenue. PO Pralgo sat in the car with § 87(2)(b) while Sgt. Martinez spoke with § 87(2)(b) who had just exited § 87(2)(b).

§ 87(2)(b) may have sustained injuries from being taken to the ground, but PO Pralgo did not recall noting new injuries. § 87(2)(b)'s arrest photo was shown to PO Pralgo. PO Pralgo said that he observed the bloody lip when he first interacted with § 87(2)(b). The contusion under § 87(2)(b)'s left eye was larger than that which PO Pralgo observed before § 87(2)(b) was taken to the ground. The contusion might have worsened when § 87(2)(b) was taken to the ground.

**Subject Officer: PO THOMAS NAPOLITANO**

- *At the time of the incident, PO Napolitano was § 87(2)(b) old. He is a white male, 6'3" tall and 250 pounds, with black hair.*
- *PO Napolitano worked from 10:00 p.m. to 6:35 a.m., assigned to Anti-Crime with PO Terepka. He was in plainclothes and assigned to a black Impala.*

**Memo Book**

PO Napolitano wrote the following entries in his memo book: at 3:50 a.m., he stopped a black male at the corner of Van Siclen Court and Jamaica Avenue in regards to a dispute in the street. The male refused to provide his information. He wore a red hooded sweatshirt and blue jeans. PO Napolitano recovered a steak knife in his back right pocket (encl. 81-82).

**CCRB Statement**

PO Napolitano was interviewed at the CCRB on February 20, 2014 (encl. 83-85). On October 16, 2013, at approximately 3:50 a.m., PO Napolitano received a cell phone call from Sgt. Martinez instructing him and PO Terepka to respond to Van Siclen Court and Jamaica Avenue for back-up in regards to a dispute, which had come over the radio. Sgt. Martinez did not provide any other information. PO Napolitano did not hear any radio communications regarding the dispute. When PO Napolitano and PO Terepka arrived at the corner, PO Napolitano did not observe anyone fighting, but he saw three males, identified by the investigation as § 87(2)(b), § 87(2)(b) and § 87(2)(b) walking north on Jamaica Avenue. They turned onto Van Siclen Court, where § 87(2)(b) and § 87(2)(b) went to the left side of the street and § 87(2)(b) went to the right side of the street. PO Napolitano could not see their faces and did not observe any injuries. PO Napolitano believed that they were involved in the dispute because it was 3:50 a.m., they were around the corner from the location of the dispute, and there were not many people outside. They were talking loudly, as if something had happened, and they split up in a suspicious manner, although they did not appear to have seen the officers before splitting up.

PO Terepka turned onto Van Siclen Court. PO Napolitano was in the passenger seat, 10 to 15 feet from § 87(2)(b). He noticed approximately one inch of the black handle of a steak knife sticking out of § 87(2)(b)'s back right jeans pocket. PO Napolitano got out of the car and stopped § 87(2)(b) by saying, "Police. Let me get a moment with you," and displaying his shield. He did not see what PO Terepka did from there. § 87(2)(b) started to walk away from PO Napolitano. PO Napolitano walked quickly towards § 87(2)(b) and removed the knife from his pocket. He asked § 87(2)(b) "What's your name? Where are you coming from? What's going on? Was there a fight?" § 87(2)(b) did not answer. PO Napolitano did not immediately arrest § 87(2)(b) because he wanted to know more about the situation and dispute first, since the knife was a steak knife, which could have been innocuous. PO Napolitano did not touch § 87(2)(b) anywhere on his body. He did not frisk or search § 87(2)(b) besides removing the steak knife. PO Napolitano could not recall what he did with the steak knife, but he did not have it when he went back to the stationhouse. At this point, PO Napolitano had not seen Sgt. Martinez or PO Pralgo. He did not know where they were.

While PO Napolitano was questioning § 87(2)(b) he heard yelling from § 87(2)(b) or § 87(2)(b) across the street. PO Pralgo yelled, "Get off me." Cars blocked PO Napolitano's

view, but he assumed that PO Terepka, Sgt. Martinez, and PO Pralgo had stopped § 87(2)(b) and § 87(2)(b). He turned back to § 87(2)(b) but heard more yelling, so he ran across the street. He looked back, and § 87(2)(b) was gone. By the time PO Napolitano crossed the street, PO Pralgo, PO Terepka, Sgt. Martinez had § 87(2)(b) in handcuffs and were walking him to the car. PO Napolitano did not observe any injuries on § 87(2)(b) but he smelled alcohol on him.

PO Napolitano did not think he prepared a Stop, Question and Frisk Report for the stop of § 87(2)(b).

## **NYPD Documents**

### **Command Log from the 75<sup>th</sup> Precinct**

According to the Command Log, PO Terepka lodged § 87(2)(b) at 4:30 a.m. Force was used to arrest § 87(2)(b). Cuts to the right cheek and lip were noted (encl. 99).

### **NYPD Event**

Event number § 87(2)(b) was created at 3:22 a.m. on October 16, 2013, when a woman called 911 and reported a group of black males arguing on the corner of Jamaica Avenue and Van Siclen Avenue. She did not know if there were weapons or injuries. She was anonymous. She did not provide a description or any other information. At 3:25 a.m., Unit 73A was dispatched. At 3:34 a.m., 73A changed the event status to pending. At 3:34 a.m., Unit 75A was dispatched. At 3:35 a.m., the event was closed as non-crime corrected (encl. 90a-d).

Event number D13101602412 was created by Unit 75SP9 at 3:58:30 a.m. on October 16, 2013 (encl. 90). The call was regarding a possible crime at Van Siclen Avenue and Jamaica Avenue in Brooklyn. At 3:58:49, Unit 75SP8 had one person under arrest at the location.

### **Arrest Report**

PO Judi Williams prepared arrest report number § 87(2)(b) for the arrest of § 87(2)(b) at 3:58 a.m. in front of § 87(2)(b) for § 87(2)(a) 160.50 (encl. 87-89). § 87(2)(b) was observed fighting at the corner of Arlington Avenue and Van Siclen Avenue. When stopped, § 87(2)(b) confronted the officer in a threatening manner. § 87(2)(b) grabbed the officer and ripped his jacket. The damage was less than \$250. § 87(2)(b) resisted arrest by flailing his arms and kicking other officers. Physical force was used. No officer was injured.

### **Request for Stop, Question and Frisk Reports**

A request from MAS for any Stop, Question and Frisk Report prepared by PO Terepka, PO Napolitano, PO Pralgo, or Sgt. Martinez for stops which occurred on Van Siclen Avenue or Van Siclen Court at approximately 3:58 a.m. on October 16, 2013, came back negative (encl. 131a).

## **Other Evidence**

### **Google Maps**

The corner of Van Siclen Avenue and Jamaica Avenue is one block north of the corner of Van Siclen Avenue and Arlington Avenue. Van Siclen Court is one half of a block northeast on Jamaica Avenue from the corner of Jamaica Avenue and Van Siclen Avenue (encl. 29a).

### **Video Footage**

In the video footage provided by § 87(2)(b) security cameras on § 87(2)(b)'s house

depict the sidewalk and street in front of § 87(2)(b)'s house (encl. 48). They do not capture the sidewalk or street in front of § 87(2)(b)'s house.

At 3:31:45, three males enter the scene in Cameras 1 and 2. They stand there for about one minute, and then walk away on Jamaica Avenue.

At 3:46:47, two males enter the scene. One male walks out of the scene, on Jamaica Avenue. The other male comes up to the corner from across Jamaica Avenue and walks up Van Siclen Court, out of view of the cameras.

At 3:49:10, § 87(2)(b) and § 87(2)(b) enter from around the corner. They walk up the block and out of the scene.

At 3:49:54, § 87(2)(b) wearing a hoodie, stands in front of Camera 4, which shows the sidewalk directly in front of § 87(2)(b)'s house.

At 3:49:58, a black car drives onto the block and out of view.

At 3:50:10, a flashlight shines on § 87(2)(b). This is presumably PO Napolitano.

At 3:50:17, § 87(2)(b) walks toward PO Napolitano. He stands several feet from PO Napolitano, and they appear to have a conversation.

At 3:50:32, PO Napolitano frisks § 87(2)(b)'s legs, starting from the bottom of his pants.

At 3:50:41 in Camera 1, a second black car drives onto the block and parks at base of the block. PO Pralgo exits from the driver's side. Sgt. Martinez exits from the passenger side.

In Camera 4, PO Napolitano frisks the back of § 87(2)(b)'s legs at 3:50:53.

At 3:50:59, PO Napolitano walks around to the back of § 87(2)(b) and continues frisking him. Sgt. Martinez stands in the street in Camera 3 and then exits from view.

At 3:51:12 in Camera 4, PO Napolitano searches the ground with a flashlight.

§ 87(2)(b) enters view in Cameras 2 and 3 at 3:52:19. He sits down, as PO Napolitano crosses the street.

In Camera 3, at 3:53:26, Sgt. Martinez or PO Napolitano searches the ground with a flashlight and then leaves. § 87(2)(b) gets up and goes inside his house.

At 3:55:15, in Camera 1, two officers escort § 87(2)(b) to the rear of a police car.

At 3:55:27 to 3:55:50, in Cameras 3 and 4, an officer searches the street and sidewalk in front of § 87(2)(b)'s house and across the street with a flashlight.

At 3:59:30, both police cars drive away.

### **Arrest for Incident and Disposition**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Status of Civil Proceedings**

- § 87(2)(b) and § 87(2)(b) have not filed a Notice of Claim with the City of New York as of January 28, 2014, with regard to the incident (encl. 100).

### **Civilians Criminal History**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]



- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Civilians CCRB History**

- This is the first CCRB complaint filed by [§ 87(2)(b)] and [§ 87(2)(b)] [§ 87(2)(b)] have never filed a CCRB complaint (encl. 25-27).

### **Subject Officers CCRB History**

- PO Radoslaw Terepka has been a member of the service for 14 years and there are no substantiated CCRB allegations against him (encl. 15-16).
- PO David Pralgo has been a member of the service for 19 years and there is one substantiated CCRB allegation against him (encl. 21-23a).
  - In CCRB case number 200905114, a physical force allegation was substantiated. The board made no recommendation, and the NYPD declined to prosecute.
- Sgt. Robert Martinez has been a member of service for 16 years and there are five substantiated CCRB allegations against him (encl. 18-20a).
  - In CCRB case number 200205713, a discourtesy allegation was substantiated. The board recommended charges. The NYPD issued command discipline – A.
  - In CCRB case number 200704280, allegations of force and threat of force were substantiated. The board recommended charges. The NYPD did not prosecute.
  - In CCRB case number 201101407, frisk and stop allegations were substantiated. The board recommended command discipline. The NYPD issued instructions.
- PO Thomas Napolitano has been a member of the service for eight years and there is one substantiated CCRB allegation against him:
  - In CCRB case number 201010420, a physical force allegation was substantiated. The board recommended charges. The case is with the CCRB Administrative Prosecution Unit (encl. 24).

### **Conclusion**

### **Identification of Subject Officers**

- PO Napolitano acknowledged stopping [§ 87(2)(b)] and removing a knife from his pocket. [§ 87(2)(g)]
- [§ 87(2)(b)] and [§ 87(2)(b)] alleged that the heavier male with gray hair whose jacket ripped, and the taller, slimmer male with brown hair, each questioned, frisked, and searched them. [§ 87(2)(b)] also alleged that the officer whose jacket ripped pushed him. PO Pralgo has gray hair and is 5'11" tall and 240 pounds. PO Terepka is 5'11" tall and 185 pounds, with blonde hair. PO Pralgo acknowledged being in an altercation with [§ 87(2)(b)] in which [§ 87(2)(b)] ripped his jacket. He and PO Terepka fit the description that [§ 87(2)(b)] and [§ 87(2)(b)] provided of the two officers who stopped, frisked, and searched them. [§ 87(2)(g)]
- [§ 87(2)(b)] alleged that the bald male officer punched him and stepped on his face. Sgt. Martinez was the only bald male present. [§ 87(2)(g)]

### **Investigative Findings and Recommendations**

### **Allegation Not Pled**

[§ 87(2)(b)] alleged that PO Pralgo damaged [§ 87(2)(b)]'s minivan when he

pushed § 87(2)(b) against it. § 87(2)(g)

**Allegation A – Abuse of Authority: PO Thomas Napolitano stopped § 87(2)(b)**

**Allegation B – Abuse of Authority: PO Thomas Napolitano frisked § 87(2)(b)**

**Allegation C – Abuse of Authority: PO Thomas Napolitano searched § 87(2)(b)**

§ 87(2)(b) said he heard that an officer searched § 87(2)(b) § 87(2)(g)

**Allegation D – Abuse of Authority: PO David Pralgo stopped § 87(2)(b) and § 87(2)(b)**

**Allegation E – Abuse of Authority: PO Radoslaw Terepka stopped § 87(2)(b) and § 87(2)(b)**

It is undisputed that PO Terepka and PO Pralgo stopped § 87(2)(b) and § 87(2)(b) § 87(2)(g)

§ 87(2)(b) and § 87(2)(b) testified that before they were stopped, they went to Jamaica Avenue because they had heard a commotion. They saw men arguing, but did not see or become involved in a physical fight. After speaking with their friend, they returned to the front of their house, where they were stopped by PO Terepka and PO Pralgo, who repeatedly asked to search them. PO Terepka questioned § 87(2)(b) regarding his residence and a fight. PO Pralgo then asked to frisk him and § 87(2)(b) § 87(2)(b) testified that when the officers approached him and § 87(2)(b) PO Terepka said, “Good evening gentlemen. How you doing? Do you guys have anything on you? Anything we need to worry about?” and then asked to search them.

§ 87(2)(b) also testified that § 87(2)(b) and § 87(2)(b) did not become involved in any fight. However, he said that his other friends fought and that § 87(2)(b) and § 87(2)(b) watched from across the street. § 87(2)(b) said that no officers responded to the scene of the fight. After the fight, § 87(2)(b) and § 87(2)(b) walked back to their house while § 87(2)(b) walked back to his. § 87(2)(b) and § 87(2)(b) did not shout when they walked home. Two police cars drove onto the block. Officers stopped § 87(2)(b) and § 87(2)(b) who was across the street.

PO Terepka testified that he stopped § 87(2)(b) because he saw § 87(2)(b) and § 87(2)(b) walking away from the location of a possible fight about which Sgt. Martinez had called him. § 87(2)(b) and § 87(2)(b) were breathing heavily and shouting profanity, as if they were heated up from a fight. § 87(2)(b) appeared to have a facial injury. PO Terepka wanted to stop § 87(2)(b) in order to investigate the fight. He wanted to know whether § 87(2)(b) was a victim or a perpetrator. The first thing PO Terepka asked § 87(2)(b) about was the fight. Sgt. Martinez was not involved in the initial stop. PO Pralgo stopped § 87(2)(b) at the same time that PO Terepka stopped § 87(2)(b)

PO Pralgo testified that he and Sgt. Martinez observed a group of men fighting at the corner of Arlington Avenue and Van Siclen Avenue. The fight broke up. Several minutes later, Sgt. Martinez received a call from PO Terepka stating that he stopped three people who had been

fighting. When PO Pralgo arrived at the location, he saw PO Terepka talking with § 87(2)(b) and § 87(2)(b). PO Pralgo did not recognize them from the fight. PO Pralgo stood in front of § 87(2)(b) to question him. Before he could ask anything, § 87(2)(b) said, “What the fuck are you always messing with us for? Why don’t you mess with the other niggers. This is a bunch of bull shit,” and walked towards PO Pralgo in a threatening manner.

Sgt. Martinez testified that he observed § 87(2)(b) and others involved in a fight at Van Siclen Avenue and Arlington Avenue at 3:30 a.m. He said he called PO Terepka and informed him of the fight. Minutes later, the men who had been fighting walked away. Sgt. Martinez received a call from PO Terepka at 3:50 a.m., stating that he had stopped three of the men. When Sgt. Martinez and PO Pralgo arrived at the location that PO Terepka specified, PO Terepka was talking to § 87(2)(b) and § 87(2)(b). PO Pralgo approached them, while Sgt. Martinez went to the opposite side of the street to check on PO Napolitano and § 87(2)(b).

PO Napolitano denied seeing a fight or the stops of § 87(2)(b) and § 87(2)(b).

The NYPD Event and Sgt. Martinez’s memo book entries confirm Sgt. Martinez’s testimony that that he observed the fight twenty minutes before PO Terepka said he stopped § 87(2)(b) and § 87(2)(b).

An officer is authorized to forcibly stop a person when the officer has reasonable suspicion that the person has committed, is committing, or is about to commit a crime People v. De Bour, 40 N.Y.2d 210 (1976) (encl. 1-11).

§ 87(2)(g)

§ 87(2)(g)

**Allegation F – Abuse of Authority: PO Radoslaw Terepka frisked § 87(2)(b)**

**Allegation G – Abuse of Authority: PO Radoslaw Terepka searched § 87(2)(b) and § 87(2)(b)**

**Allegation H – Abuse of Authority: PO David Pralgo frisked § 87(2)(b) and § 87(2)(b)**

**Allegation I – Abuse of Authority: PO David Pralgo searched § 87(2)(b)**

§ 87(2)(b) alleged that PO Terepka searched him and § 87(2)(b). He also alleged that PO Pralgo frisked him. § 87(2)(b) alleged that PO Terepka frisked § 87(2)(b) and then searched them both. § 87(2)(b) also alleged that PO Pralgo frisked and searched him. PO Terepka testified that he thought he frisked § 87(2)(b) but denied searching § 87(2)(b) or § 87(2)(b). PO Pralgo denied frisking or searching § 87(2)(b) or § 87(2)(b).

According to § 87(2)(b), PO Pralgo asked for permission to frisk § 87(2)(b) and § 87(2)(b). They consented, and PO Pralgo frisked § 87(2)(b) while PO Terepka frisked § 87(2)(b). PO Pralgo then put his hands inside § 87(2)(b)’s pockets while PO Terepka put his hands inside § 87(2)(b)’s pockets. After searching the ground with flashlights for several minutes, the officers again asked to search § 87(2)(b) and § 87(2)(b). They again consented, and PO Terepka and PO Pralgo again searched § 87(2)(b) and § 87(2)(b).

§ 87(2)(b) testified that PO Terepka asked, “Do you mind if we search you?” to which

§ 87(2)(b) and § 87(2)(b) said, “OK,” because they did not think they had a choice. § 87(2)(b) § 87(2)(b) alleged that PO Terepka put his hands in § 87(2)(b) s pockets and then put his hands in § 87(2)(b) s pockets. PO Terepka then asked to search § 87(2)(b) and § 87(2)(b) again. He put his hands in § 87(2)(b) s pockets and § 87(2)(b) s pockets. PO Pralgo then patted the outside of § 87(2)(b) s pockets.

In his telephone statement, § 87(2)(b) stated that officers searched § 87(2)(b) and § 87(2)(b) In his sworn statement, § 87(2)(b) said he did not know if officers frisked or searched § 87(2)(b) or § 87(2)(b)

In his testimony, PO Terepka denied frisking or searching § 87(2)(b) He also denied searching § 87(2)(b) but he thought he frisked § 87(2)(b) s waist for weapons when he first approached § 87(2)(b) PO Terepka suspected that § 87(2)(b) and § 87(2)(b) might be armed because they had just come from a fight, were in a high crime area, and had been yelling profanity when PO Terepka observed them earlier. There was nothing else that made PO Terepka suspect that § 87(2)(b) or § 87(2)(b) were armed. PO Terepka had not observed any weapons at the scene of the fight, nor had he heard any information regarding weapons. PO Terepka did not recall whether he said anything before frisking § 87(2)(b)

PO Pralgo did not recognize § 87(2)(b) or § 87(2)(b) from the fight. He denied searching or frisking § 87(2)(b) or § 87(2)(b) He denied seeing PO Terepka frisk or search § 87(2)(b) or § 87(2)(b) PO Napolitano and Sgt. Martinez also denied seeing PO Terepka or PO Pralgo frisk or search § 87(2)(b) or § 87(2)(b)

§ 87(2)(g)

An officer is permitted to frisk an individual when the officer reasonably believes the individual to be dangerous, by virtue of being armed. *People v. De Bour*, 40 N.Y.2d 210 (1976) (encl. 1-11). A request for consent to search is a common law inquiry which requires founded suspicion that criminality is afoot. *People v. Hollman*, 79 N.Y.2d 181 (1992) (encl. A-H).

§ 87(2)(g)

#### **Allegation J – Force: PO David Pralgo used physical force against § 87(2)(b)**

It is undisputed that PO Pralgo and § 87(2)(b) were involved in a physical altercation.

§ 87(2)(g)

§ 87(2)(b) and § 87(2)(b) stated that § 87(2)(b) repeatedly asked the officers, “What’s the probable cause?” Apparently irritated at being asked repeatedly, PO Pralgo pushed § 87(2)(b) s chest with both hands against the minivan behind him, causing a dent in the minivan door. § 87(2)(b) did not step forward, nor did he say or do anything threatening to PO Pralgo, before being pushed. § 87(2)(b) put his arms up to protect himself. He grabbed PO

Pralgo's jacket. PO Terepka came and grabbed § 87(2)(b)'s right arm. § 87(2)(b) released PO Pralgo's jacket. At some point, the jacket ripped.

PO Pralgo denied pushing § 87(2)(b) or initiating physical contact with him. According to PO Pralgo, he never had a chance to question, frisk, or search § 87(2)(b). Seconds after he stood in front of § 87(2)(b), § 87(2)(b) said, "What the fuck are you always messing with us for? Why don't you mess with the other niggers. This is a bunch of bull shit." § 87(2)(b) then stepped towards PO Pralgo. Feeling threatened, PO Pralgo stepped back, extended his hand (without making physical contact), and told § 87(2)(b) to back up. § 87(2)(b) grabbed PO Pralgo's jacket and pushed and pulled him, causing the jacket to rip.

PO Terepka, Sgt. Martinez, and PO Napolitano each testified that they did not see how the altercation between § 87(2)(b) and PO Pralgo began because they were focused on § 87(2)(b) and § 87(2)(b). When Sgt. Martinez and PO Terepka first looked at PO Pralgo and § 87(2)(b), § 87(2)(b) was already holding onto PO Pralgo's jacket. PO Napolitano did not see them until § 87(2)(b) was already in handcuffs. The officers did not see PO Pralgo push § 87(2)(b) nor did they see § 87(2)(b) step towards PO Pralgo threateningly or grab PO Pralgo's jacket.

No officer saw § 87(2)(b)'s body make contact with the minivan, but § 87(2)(b) and § 87(2)(b) each stated that PO Pralgo pushed him against the minivan. When § 87(2)(b)'s father exited the house, he noticed a dent on his van which was not there before. He accused the officers of denting the van.

Patrol Guide Procedure 203-11 says that officers must use minimum necessary force (encl. 14a-b).

§ 87(2)(g)  
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§ 87(2)(g)

#### **Allegation K – Force: Sgt. Robert Martinez used physical force against § 87(2)(b)**

§ 87(2)(g)  
§ 87(2)(b) testified that after PO Pralgo pushed him against the minivan, § 87(2)(b) grabbed and ripped PO Pralgo's jacket. PO Terepka grabbed § 87(2)(b)'s arm. § 87(2)(b) grabbed PO Terepka's jacket. § 87(2)(b) alleged that Sgt. Martinez then punched the left side of his face. The officers took § 87(2)(b) to the ground, where § 87(2)(b) did not resist being handcuffed. As officers were handcuffing § 87(2)(b), Sgt. Martinez stepped on the right side of § 87(2)(b)'s face and twisted his foot, causing the left side of § 87(2)(b)'s face to rub against the pavement. § 87(2)(b) sustained an abrasion on his left cheekbone and the right corner of his lip (encl. 86).

§ 87(2)(b) said Sgt. Martinez or PO Pralgo punched § 87(2)(b) after pushing him against the minivan. Officers took § 87(2)(b) to the ground, and an officer stomped on his head. § 87(2)(b) ran into the house as soon as PO Pralgo pushed § 87(2)(b). He did not witness the subsequent altercation.

Sgt. Martinez denied punching § 87(2)(b) or stepping on his face. He testified that he did not arrive on that side of the street until § 87(2)(b) was already on the ground. Sgt. Martinez testified that his only physical involvement with § 87(2)(b) was holding his hands behind his back to help PO Pralgo place them in handcuffs, as § 87(2)(b) resisted by stiffening his arms and kicking the air.

PO Terepka corroborated Sgt. Martinez's statement. He testified that Sgt. Martinez did not become involved until § 87(2)(b) was already on the ground. PO Terepka said that Sgt.

Martinez helped apprehend § 87(2)(b) but he did not recall how. PO Terepka did not see Sgt. Martinez punch § 87(2)(b) or step on his face. PO Terepka said that § 87(2)(b) resisted behind handcuffed by pulling his hands away and kicking the air.

PO Pralgo's statement differed from those provided by Sgt. Martinez and PO Terepka. PO Pralgo testified that, while he did not recall exactly how Sgt. Martinez intervened, he remembered that Sgt. Martinez helped get § 87(2)(b) off of PO Pralgo when § 87(2)(b) was grabbing PO Pralgo's jacket. PO Pralgo thought that Sgt. Martinez and PO Terepka took § 87(2)(b) to the ground. Sgt. Martinez then grabbed one of § 87(2)(b)'s hands and helped place him in handcuffs, while § 87(2)(b) stiffened his arms and kicked the air. PO Pralgo denied seeing Sgt. Martinez punch § 87(2)(b) or step on his face.

By the time PO Napolitano saw § 87(2)(b) and the officers, § 87(2)(b) was in handcuffs.

The injuries in § 87(2)(b)'s arrest photo and the photos he provided were consistent with the force he alleged against Sgt. Martinez. The bruise to his left eye socket is consistent with being punched there. The swelling to the right side of his mouth and the abrasion to his left cheek are consistent with someone stomping on the right side of his face while rubbing the left side of his face against pavement. The photo of blood on the pavement is also consistent with his face rubbing there (encl. 40-44; 86).

§ 87(2)(b) and § 87(2)(b) stated that § 87(2)(b) did not have these injuries before his interaction with the officers. They denied that § 87(2)(b) had been fighting before interacting with officers.

Sgt. Martinez stated that he saw blood near § 87(2)(b)'s mouth when § 87(2)(b) was holding onto PO Pralgo's jacket. Sgt. Martinez also said he saw a punch thrown near § 87(2)(b) when he observed the fight between civilians. Sgt. Martinez did not observe the abrasion on § 87(2)(b)'s cheek before the altercation with officers. PO Terepka testified that § 87(2)(b) had a facial injury with blood before the altercation with officers, but PO Terepka did not recall where exactly it was on his face. PO Terepka wrote in his memo book that § 87(2)(b) sustained injuries from both the earlier fight and the altercation with officers. PO Pralgo testified that § 87(2)(b) had a bloody lip and a small contusion under his left eye before their altercation. PO Pralgo stated that the contusion grew larger while § 87(2)(b) was being handcuffed on the ground. PO Napolitano did not notice injuries on § 87(2)(b) at any point.

§ 87(2)(g)

Patrol Guide Procedure 203-11 says that officers must use minimum necessary force (encl. 14a).

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

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Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature                      Print                      Date

Supervisor: \_\_\_\_\_  
Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_  
Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_  
Title/Signature                      Print                      Date